IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2036 of 2007()

CC.190/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY
CRIME NO.561/04 OF WADAKKANCHERRY POLICE STATION.

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PETITIONER: PETITIONER

ASHARAF, S/O.HAMSA, AGED 27 YEARS,
RESIDING AT CHATHANKOTTLE HOUSE, VAZHAKODE,
MULLOORKARA P.O., THRISSUR DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
WADAKKANCHERRY POLICE STATION,
THRISSUR DISTRICT.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C.NO. 2036 OF 2007

Dated this the 26th day of June, 2007

ORDER

The petitioner is one of the 20 accused persons who faced indictment in a prosecution, inter alia, under Secs.323 and 341 read with Sec.149 of the IPC. He was the 12th accused. The co-accused have already been tried, found not guilty and acquitted; but the petitioner was declared as absconding and the case against the petitioner along with another absconding accused was split up. The petitioner could not appear and therefore a warrant of arrest and proceedings under Secs.82 and 83 of the Cr.P.C. are all pending against the petitioner. Action against the sureties is also in progress. The petitioner, in these circumstances, has come before this Court for issue of directions under Sec.482 of the Cr.P.C. to quash the proceedings against him.

2. What are the reasons? The learned counsel for the

petitioner submits that the matter has been settled and compounded by the victims. They have no surviving grievance. The co-accused have already been found not guilty and acquitted. In these circumstances, proceedings against the petitioner may be quashed, it is prayed.

3. Acquittal of the co-accused is by now itself no reason for an absconding co-accused to claim any benefit or privilege. Composition must be reported to the court competent to accept such composition. I am, in these circumstances, satisfied that it is not necessary to invoke the powers under Sec.482 of the Cr.P.C. The petitioner can appear through counsel before the court below. All offences alleged are bailable and are summons offences. He can apply for exemption under Sec.205 of the Cr.P.C. He can report to the learned Magistrate that the offences alleged have been compounded. He can argue before the learned Magistrate through his counsel that charge is not liable to be framed for any non-compoundable offences. If the learned Magistrate feels that these contentions can be accepted on the facts and circumstances of this case, I am certainly of opinion that the learned Magistrate should not unnecessarily insist on the personal appearance of the accused and can

proceed to dispose of the case on merits after accepting composition. The petitioner can apply for discharge for the non-compoundable offences after so appearing through counsel.

4. With the above observations, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge